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# Standing Committee on Resources Development

Report on the 1984  
Annual Report of the  
Workers' Compensation Board

1st Session 33rd Parliament  
34 Elizabeth II







LEGISLATIVE ASSEMBLY  
ASSEMBLÉE LÉGISLATIVE

Queen's Park  
November 1985

The Honourable Hugh Edighoffer, M.P.P.,  
Speaker of the Legislative Assembly.

Sir,

Your Standing Committee on Resources Development has the honour to present its Report on the 1984 Annual Report of the Workers' Compensation Board, and commends it to the House.

*Floyd Laughren*

Floyd Laughren, M.P.P.  
Chairman

*David Ramsay*  
David Ramsay, M.P.P.  
Vice-Chairman

*James McGuigan*  
James McGuigan, M.P.P.

*Bill Barlow*

Bill Barlow, M.P.P.

*Earl Rowe*

Earl Rowe, M.P.P.

*Rick Ferraro*  
Rick Ferraro, M.P.P.

*David Smith*  
David Smith, M.P.P.

*James K. Gordon*  
James Gordon, M.P.P.

*Laurence South*  
Laurence South, M.P.P.

*Pat Hayes*

Pat Hayes, M.P.P.

*K.R. Stevenson*

K. Ross Stevenson, M.P.P.

AWE-2224

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

MEMBERSHIP AS OF FRIDAY, 25 OCTOBER 1985

FLOYD LAUGHREN  
Chairman

DAVID RAMSAY  
Vice-Chairman

JAMES MCGUIGAN

BILL BARLOW

EARL ROWE

RICK E. FERRARO

DAVID SMITH

JAMES K. GORDON

LAURENCE SOUTH

PAT HAYES

K. ROSS STEVENSON

---

Douglas Arnott  
Clerk of the Committee

Tod J. Decker  
Clerk pro tem. of the Committee

Merike Madisso  
Research Officer



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

MEMBERSHIP AS OF WEDNESDAY, 10 JULY 1985

FLOYD LAUGHREN  
Chairman

BILL BARLOW

GORDON MILLER

LEO BERNIER

DAVID RAMSAY

ROBERT G. ELGIE, M.D.

EDWARD SARGENT

RICK E. FERRARO

LAURENCE SOUTH

ELIE W. MARTEL

K. ROSS STEVENSON

SUBSTITUTE MEMBERS

ROBERT CALLAHAN

CLAUDIO POLSINELLI

JAMES K. GORDON

EARL W. ROWE

JAMES D. HENDERSON


DAVID W. SMITH

BOB McKESSOCK

JOAN E. SMITH

TERRANCE P. O'CONNOR

PAUL J. YAKABUSKI



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## TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
CLAIMS ADJUDICATION	3
PERMANENT PENSIONS	5
SUPPLEMENTS	7
APPEALS	8
DOCTORS	9
REHABILITATION	11
FINANCING THE WORKERS' COMPENSATION BOARD	13
EMPLOYER ASSESSMENTS AND PENALTIES	14
INDUSTRIAL DISEASE	15
THE BOARD'S ANNUAL REPORT	17
BENEFITS	18
<u>LIST OF RECOMMENDATIONS:</u>	19
<u>APPENDIX A - Terms of Reference</u>	25
<u>APPENDIX B - Schedule of Hearings</u>	26
<u>APPENDIX C - List of Exhibits</u>	29



## INTRODUCTION

Section 85 of the Workers' Compensation Act provides that the Board "shall after the close of each year file with the Minister of Labour an annual report upon the affairs of the Board." The section goes on to say:

The Minister of Labour shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session, or, if not, at the next ensuing session and the report shall then be referred to a standing committee of the Assembly.

In keeping with this statutory requirement, the Board's report was referred to the Standing Committee on Resources Development by Order of the House dated July 10, 1985. This year, however, the practice differed from previous years in two respects: groups were invited to comment on the report in public hearings and the Committee made a decision that a report of its own would come out of its deliberations.

The Committee wishes to begin by welcoming to the chairmanship of the Workers' Compensation Board Dr. Robert Elgie, Q.C., M.D., F.R.C.S.(C.). That he attended the Committee's deliberations at what must have been a particularly busy time for him was greatly appreciated and is taken as an indication of the keen interest which he brings to the issue and to his new position.

Committee members also wish to thank those groups who prepared and presented briefs--such participation by both employer and employee groups is an essential part of the parliamentary process. Their suggestions were all given serious consideration; some groups will, indeed, observe that the Committee's recommendations have a familiar ring.

Understandably, the question of financing concerned employer groups, who genuinely wish to compensate injured workers fairly, but are worried by escalating costs and the unfunded liability. They believe that when pension increases are legislated, legislators should give due consideration to the employers' financial situation and to the impact of such increases on Ontario's industry and workforce.





One employer presentation in particular should be noted. The Ontario Mining Association, expressing a concern about costs, suggested an option it considered worthy of further study --namely, "to incorporate the existing compensation system into a comprehensive disability-insurance scheme."

The growing impatience of members of the Legislature, many of whom feel overwhelmed by the complexity and extent of injured workers' problems should also be commented upon. With each year their frustration mounts in the face of the inability of the system to resolve many of these problems. It is the Committee's hope that next year's review of the Board's annual report will not see a repeat of the usual grievances against the Board so that the Committee can move on to new ways of improving the compensation system of the province.

Finally, The Committee is also grateful for the assistance given to it by Doug Cain, Associate Secretary of the Board, and by its own staff, Committee Clerks Douglas Arnott and Todd Decker and researcher Merike Madisso.



## CLAIMS ADJUDICATION

That there are problems at the claims adjudication level is proven by the Board's own statistics in its 1984 Annual Report: during 1984, appeals adjudicators allowed or partially allowed 49.4% of appeals decided and appeal boards allowed or partially allowed 33.7% of appeals decided. Clearly, decision-making at the primary level is in need of dramatic improvement. The Committee sees a number of ways in which this improvement can be effected.

### Recommendations

1. The Committee recommends the constituting of a functional assessment team that will consist of professionals who are not employed by the WCB. The team would consist of such professionals as physicians, physiotherapists, occupational therapists, kinesiologists, etc., who would make a functional assessment incorporating medical considerations.
2. Where there is a conflict of medical opinion between the claimant's doctor and the Board's doctor, the claim is denied, and the claimant objects to the denial, the matter should go to the functional assessment team for a decision. Similarly, if there is a conflict, benefits are terminated, and the claimant objects, the matter should go to the team for a decision.
3. When benefits are already being paid, they should continue to be paid pending a decision by the functional assessment team regarding termination.
4. To ensure that the workload at the claims adjudication level is properly handled, the case load of individual adjudicators should not be affected by factors such as inadequate staffing, vacation periods, illness, etc.. In addition, the Board should endeavour to organize matters in such a way that files do not move from adjudicator to adjudicator.





5. The Board should ensure the effectiveness of the system by obtaining all relevant information and evidence prior to the initial adjudication of a claim.
6. The Board should reiterate that the principle of benefit of reasonable doubt applies at the adjudication level.



## PERMANENT PENSIONS

### Recommendations

1. Committee members heard evidence of--and, as advocates for constituents who are injured workers, have themselves experienced--the problems that arise when Board doctors make determinations about the extent of physical disability of an injured worker.

The Committee therefore recommends the referral of cases to the functional assessment team, as described above, for the assessment. The Committee also recommends that clear criteria for applying the disability rating schedule in individual cases should be enunciated.

The implementation of this recommendation should introduce greater flexibility to disability rating. As far as the rating schedule (unfortunately known as the "meat chart") itself is concerned, the Committee took note of the many individuals and groups who objected to its lack of fairness. However, because changes to the schedule are anticipated as a result of a review by Professor Paul Weiler and Professor John Burton, the Committee refrains at this time from making recommendations regarding specific percentage ratings.

2. On October 1, 1985, the Minister of Labour acknowledged to the Committee that "There are few, if any, who would argue with the assertion that no group within the compensation system is more deserving of special attention than surviving spouses." The Committee echoes the Minister's concern for this group of pensioners and therefore recommends an immediate increase in the pensions of existing survivors so that these pensions become the equivalent of what would have been received had existing widows and widowers been eligible under the new survivors' pension scheme.





3. When the average earnings of a worker are being determined, they should be determined during either the 12-month period preceding the date of the accident or the 12-month period preceding the date of the permanent disability rating so as to provide the injured worker with a pension that is fair under all the circumstances.
4. The Committee took note of evidence of hardship caused by the Board's policy regarding the commutation of pensions, and therefore recommends that commutations should be granted not only for rehabilitative purposes, but also to help workers use their permanent pensions to increase their financial stability.



## SUPPLEMENTS

Despite the fact that new temporary supplement provisions for partially disabled workers came into effect April 1, 1985, Board policy and practice are still in need of revision. Because the intent of what is now s. 45(5) of the Act is to modify the permanent disability award system, the Committee believes that supplements should better compensate for the loss of salary experienced by the injured worker, as a general principle. In particular, older and part-time workers should benefit more fully from the scheme. The Committee also wishes to emphasize that the current practice, whereby supplements are terminated with no notice or with one week's notice, is unacceptable.

### Recommendations:

1. Rehabilitation or re-employment should be the only reasons for termination of supplements. Supplements should be terminated only upon review. Reasonable notice (consisting of a minimum of four to six weeks) should be given to the injured worker. Finally, the reason for the termination should be given.
2. The Board should make every effort to find a job for the older worker. The older workers' supplement is a benefit and should not be used as a cost-cutting measure.
3. Part-time employment should be no barrier to the receipt of a supplement.
4. The awarding of a supplement should not be conditional upon enrolment in a vocational rehabilitation program.





## APPEALS

The new Appeals Tribunal continues to be a major source of concern to Committee members, despite extensive discussions with its chairman. Briefly put, the Committee foresees that an excessively legalistic structure and approach would work to the detriment of injured workers.

For example, the matter of adequate representation for injured workers may become a significant problem if the practice develops that injured workers are represented by non-lawyers while employers are able, because of greater financial resources, to hire expert legal assistance. Secondly, the pre-trial process will present problems for injured workers' representatives (including, among them, the assistants of members of the Legislature), who may perhaps have to appear for both the hearing and pre-hearing phases. Thirdly, cross-examination at the hearing itself, adversarial by nature, may intimidate a claimant and his or her witnesses, whose language skills and education may not compare well with those of a lawyer hired by the employer.

These are all matters that deserve the close attention of the Appeals Tribunal. When the Standing Committee next reviews the Workers' Compensation Board's annual report, it will do so from the perspective of these concerns. In the meantime, and in the interests of giving the Tribunal a chance to prove itself, the Committee limits itself to one recommendation.

### Recommendation:

1. The six-months the Tribunal will take to dispose of an appeal is too long and steps should be taken to shorten it.



## DOCTORS

Probably no aspect of the Board's functioning attracted more criticism than the doctors on its staff--hardly an individual or group appearing before the Committee neglected to comment negatively on them. Their criticisms are wide-ranging: doctors make diagnoses without having examined the patient; they are the real adjudicators at the board; they base their decisions on other than medical reasons; general practitioners are allowed to over-rule specialists; doctors are allowed to decide both the initial claim and any appeal from it; and so on. It is interesting to note that many of these same criticisms have been directed at the Board by the Ombudsman in his 1984-85 Annual Report.

The Committee's response to these problems has been to more specifically delineate the proper role of physicians and to limit them to that role. To the same end, the Committee has also recommended the constitution of a functional assessment team, as described on the first page of this report. It is the Committee's belief that such a multi-disciplinary team will better serve the interests of injured workers and, by so doing, eliminate some of the criticism currently directed at Board doctors.

### Recommendations:

1. Board doctors should not make diagnoses or recommendations without having examined the injured worker thoroughly; they should indicate the nature of the examination in the worker's file. Full medical reasoning should be provided by Board doctors in their memos.
2. The Board should regularly publish a list of its doctors and their areas of specialization. If the Board seeks to overturn a claimant's medical evidence, the Board must do so by means of a specialist of comparable qualifications to the claimant's specialist.
3. Board doctors who make decisions on an issue at the initial adjudication should not subsequently review the issue at any level.



4. A medical practitioner who has been appointed to the panel of medical practitioners and whose assistance has been sought by the Appeal Tribunal should have access to all relevant materials used by the Board, including the method used to determine the estimation of earning capacity.





## REHABILITATION

As long as injuries occur at work, the rehabilitation of injured workers into the workforce has to be a central objective of the compensation scheme. The Committee believes that rehabilitation should be begun early in the post-accident period and should be continuous until every effort has been made to find re-employment for the injured worker. Such effort may terminate in the worker's finding a job that is in fact superior to the one he or she had at the time of injury.

The Board's current rehabilitation programs need modification and upgrading in a number of ways, Bill 101 not having adequately addressed the need for change.

### Recommendations:

1. Vocational training and education should not be a "last resort"; they should begin early in the rehabilitation process. Board counsellors should develop expertise in helping injured workers select appropriate vocational programs. Two specific gaps in Board programs for injured workers have been identified: English as a Second Language (ESL) courses should be extended and more training in high tech areas should be provided.
2. An independent task force, comprised of representatives from labour, industry, and education should be established to make recommendations to the government and the Board regarding improvements in the rehabilitation system.
3. The Rehabilitation Branch should do at least one year of follow-up on a worker who secures employment.
4. Testing of an injured worker should be directed towards determining the fields in which the worker is trainable rather than towards traditional IQ assessment.



5. The Board should put more emphasis on working with employers to help finance ways in which workplaces can be modified so as to accommodate injured workers.
6. The Board should assist injured workers with their travel costs when they are looking for work.
7. Because the interpretation of a given collective agreement can be an issue in a rehabilitation matter, the Board should improve its understanding of these agreements.



### FINANCING THE WORKERS' COMPENSATION BOARD

The issue of the Board's unfunded liability--and the extent to which it does or does not present a problem--continues to be a perplexing one. Standing currently at 2.7 billion dollars, it is the source of employers' concern that the compensation system is out of control. Injured workers, on the other hand, are fearful that their pensions will suffer in any attempt to reorganize the system.

The Committee is in agreement with the Minister of Labour's statement, made when he appeared on October 1, 1985, that the escalation in the unfunded liability cannot be used as "an excuse for failing to treat injured workers in a humane and sensitive way." With this commitment from the Minister in mind, and recognizing that the matter is one that will continue to be raised, the Committee recommends further study of this question.

#### Recommendations:

1. The Board should examine the possibility of compulsory inclusion of all employers under the Workers' Compensation Act.
2. The new Corporate Board should conduct a study to determine whether the present size of the unfunded liability constitutes a problem, how severe that problem is, and what steps should be taken to remedy it. The Corporate Board's conclusions should be included in the next annual report.





## EMPLOYER ASSESSMENTS AND PENALTIES

The Committee is concerned that under the compensation system as it currently exists, there is no connection between an employer's rehabilitation efforts and that employer's assessment rate. The Committee believes that the assessment rate of employers who hire or re-hire injured workers should be lower than the rate of those employers who do not. Such a policy would serve as an incentive to employers to involve themselves in the rehabilitation of injured workers.

### Recommendations:

1. As an incentive to employers to both rehire injured workers and aid in the rehabilitation process, the assessment rate of employers should reflect the extent to which they hire or rehire injured workers.
2. Employers should be educated to understand that the Human Rights Code prohibits discrimination against a worker to whom compensation benefits or pensions were or are presently paid.
3. There should be higher fines for employers who violate the Workers' Compensation Act and the Occupational Health and Safety Act. Fines for violators should increase with the number of offences.



## INDUSTRIAL DISEASE

The matter of industrial disease continues to plague the compensation system. The Board's Annual Report does not record how many pure industrial disease claims have been allowed. However, Professor Weiler, in Protecting the Worker from Disability: Challenges for the Eighties, using 1980 data, demonstrates how reluctant the Board is to recognize such claims. He says, at page 16, "What most people would think of as a disease in the true sense of the term--a cardiovascular, cancer or respiratory condition which is seriously disabling or even fatal--amounts to a total of only two hundred allowed claims per year: or 0.05% of the claims granted by the Board for accidental injuries."

These claims give rise to some of the most harrowing personal histories; those told by workers who have been disabled by contact with asbestos are particularly moving. The Committee is mindful of what the Report of the Royal Commission on Matters of Health and Safety Arising from the Use of Asbestos in Ontario has said on this subject: "That asbestos can be a devastatingly serious health hazard was widely known many years before this Commission was appointed in April of 1980. We were hardly needed to confirm this fact" (p. 3, Vol. I). And, again, "The asbestos-induced disaster at this plant [Johns-Manville in Scarborough] ranks with the worst that have been recorded in the international epidemiological literature on asbestos" (p. 7). The Committee therefore addresses most of its recommendations to the case of asbestos workers and, in one instance, refers specifically to Johns-Manville itself.

### Recommendations:

1. The Board should strengthen its role in undertaking a full investigation when an industrial disease claim is presented.
2. A thorough, independently-conducted medical examination of all workers working with asbestos and of all workers who have worked with it, whether or not they have a claim, should be done annually. The results of these examinations should be made available to the worker. Programs should also be undertaken which will protect members of asbestos workers' families.



3. The Board should stop sending reports and correspondence concerning former employees of the Johns-Manville plant in Scarborough to the company. It should also make available to former employees copies of all correspondence between the Board and the company.
4. The entire matter of asbestos-related disease should be referred to the Industrial Disease Standards Panel.
5. The spouses of deceased asbestos workers should be compensated regardless of the level of disability of the deceased spouse. Compensation should be automatic unless it can be proven that death was not related to occupational exposure.





### THE BOARD'S ANNUAL REPORT

The Committee was pleased that some of the groups appearing before it specifically addressed themselves to the contents of the Board's 1984 Annual Report. The import of their criticism of the Report was that it omits certain topics altogether and does not, in other cases, go into sufficient detail. The Committee concurs and, in particular, notes weaknesses in two areas of reporting--namely, statistics on industrial disease and on injured workers returning to their original employers.

1. The following data should be included in every annual report:
  - (a) persistency rates
  - (b) a ten-year (rather than three-year) statistical record
  - (c) the breakdown, by industrial disease, of pensions awarded.
2. Actual figures (rather than percentages) should be provided under "Claims Response Times."
3. The statistics on the number of injured workers on active pension should be broken down to indicate how many workers remained with their original employers.
4. The statistics on patients who successfully completed treatment at Downview Rehabilitation Centre should indicate what number remained with their original employers and what number are currently employed.
5. The statistics on industrial disease should include the following:
  - (a) a list of specific diseases
  - (b) the number of claims allowed
  - (c) claim response time



## BENEFITS

The Committee is primarily interested in ensuring that injured workers are not penalized by the compensation system. Professor Weiler recommended, in Reshaping Workers' Compensation for Ontario, that so-called "fringe" benefits of employment be provided to injured workers on the grounds that such benefits typically comprise 25 to 30 percent of the total compensation package paid to employees for their services. The Ontario government's 1981 White Paper on the Workers' Compensation Act also sought to introduce some compensation for an injured worker's loss of these benefits. Its proposal was echoed by the Standing Committee in its 1983 report.

### Recommendations:

1. While off work because of a compensable injury, workers should receive the normal benefits to which they are entitled. Included would be such items as dental, pension, unemployment insurance, Canada Pension Plan, etc.
2. The Board should be permitted by the Act to provide additional support for the worker's family in the form of, for example, a homemaker, child care, and dental expenses for the children.
3. Where overpayment results from an administrative error, it should be recovered from the administration of the Board rather than from the injured worker, unless the error should have been obvious to the injured worker.
4. A full review of persistency rates (the average number of full days on benefit per original lost-time claim) should immediately be undertaken by the new Corporate Board in order to determine the causes of increasing claim duration. The Board should make its report public.



### LIST OF RECOMMENDATIONS

Your Standing Committee on Resources Development makes the following recommendations:

1. The Committee recommends the constituting of a functional assessment team that will consist of professionals who are not employed by the WCB. The team would consist of such professionals as physicians, physiotherapists, occupational therapists, kinesiologists, etc., who would make a functional assessment incorporating medical considerations.
2. Where there is a conflict of medical opinion between the claimant's doctor and the Board's doctor, the claim is denied, and the claimant objects to the denial, the matter should go to the functional assessment team for a decision. Similarly, if there is a conflict, benefits are terminated, and the claimant objects, the matter should go to the team for a decision.
3. When benefits are already being paid, they should continue to be paid pending a decision by the functional assessment team regarding termination.
4. To ensure that the workload at the claims adjudication level is properly handled, the case load of individual adjudicators should not be affected by factors such as inadequate staffing, vacation periods, illness, etc.. In addition, the Board should endeavour to organize matters in such a way that files do not move from adjudicator to adjudicator.
5. The Board should ensure the effectiveness of the system by obtaining all relevant information and evidence prior to the initial adjudication of a claim.
6. The Board should reiterate that the principle of benefit of reasonable doubt applies at the adjudication level.



7. Committee members heard evidence of--and, as advocates for constituents who are injured workers, have themselves experienced--the problems that arise when Board doctors make determinations about the extent of physical disability of an injured worker.

The Committee therefore recommends the referral of cases to the functional assessment team, as described above, for the assessment. The Committee also recommends that clear criteria for applying the disability rating schedule in individual cases should be enunciated.

The implementation of this recommendation should introduce greater flexibility to disability rating. As far as the rating schedule (unfortunately known as the "meat chart") itself is concerned, the Committee took note of the many individuals and groups who objected to its lack of fairness. However, because changes to the schedule are anticipated as a result of a review by Professor Paul Weiler and Professor John Burton, the Committee refrains at this time from making recommendations regarding specific percentage ratings.

8. On October 1, 1985, the Minister of Labour acknowledged to the Committee that "There are few, if any, who would argue with the assertion that no group within the compensation system is more deserving of special attention than surviving spouses." The Committee echoes the Minister's concern for this group of pensioners and therefore recommends an immediate increase in the pensions of existing survivors so that these pensions become the equivalent of what would have been received had existing widows and widowers been eligible under the new survivors' pension scheme.
9. When the average earnings of a worker are being determined, they should be determined during either the 12-month period preceding the date of the accident or the 12-month period preceding the date of the permanent disability rating so as to provide the injured worker with a pension that is fair under all the circumstances.





10. The Committee took note of evidence of hardship caused by the Board's policy regarding the commutation of pensions, and therefore recommends that commutations should be granted not only for rehabilitative purposes, but also to help workers use their permanent pensions to increase their financial stability.
11. Rehabilitation or re-employment should be the only reasons for termination of supplements. Supplements should be terminated only upon review. Reasonable notice (consisting of a minimum of four to six weeks) should be given to the injured worker. Finally, the reason for the termination should be given.
12. The Board should make every effort to find a job for the older worker. The older workers' supplement is a benefit and should not be used as a cost-cutting measure.
13. Part-time employment should be no barrier to the receipt of a supplement.
14. The awarding of a supplement should not be conditional upon enrolment in a vocational rehabilitation program.
15. The six-months the Tribunal will take to dispose of an appeal is too long and steps should be taken to shorten it.
16. Board doctors should not make diagnoses or recommendations without having examined the injured worker thoroughly; they should indicate the nature of the examination in the worker's file. Full medical reasoning should be provided by Board doctors in their memos.
17. The Board should regularly publish a list of its doctors and their areas of specialization. If the Board seeks to overturn a claimant's medical evidence, the Board must do so by means of a specialist of comparable qualifications to the claimant's specialist.



18. Board doctors who make decisions on an issue at the initial adjudication should not subsequently review the issue at any level.
19. A medical practitioner who has been appointed to the panel of medical practitioners and whose assistance has been sought by the Appeal Tribunal should have access to all relevant materials used by the Board, including the method used to determine the estimation of earning capacity.
20. Vocational training and education should not be a "last resort"; they should begin early in the rehabilitation process. Board counsellors should develop expertise in helping injured workers select appropriate vocational programs. Two specific gaps in Board programs for injured workers have been identified: English as a Second Language (ESL) courses should be extended and more training in high tech areas should be provided.
21. An independent task force, comprised of representatives from labour, industry, and education should be established to make recommendations to the government and the Board regarding improvements in the rehabilitation system.
22. The Rehabilitation Branch should do at least one year of follow-up on a worker who secures employment.
23. Testing of an injured worker should be directed towards determining the fields in which the worker is trainable rather than towards traditional IQ assessment.
24. The Board should put more emphasis on working with employers to help finance ways in which workplaces can be modified so as to accommodate injured workers.
25. The Board should assist injured workers with their travel costs when they are looking for work.



26. Because the interpretation of a given collective agreement can be an issue in a rehabilitation matter, the Board should improve its understanding of these agreements.
27. The Board should examine the possibility of compulsory inclusion of all employers under the Workers' Compensation Act.
28. The new Corporate Board should conduct a study to determine whether the present size of the unfunded liability constitutes a problem, how severe that problem is, and what steps should be taken to remedy it. The Corporate Board's conclusions should be included in the next annual report.
29. As an incentive to employers to both rehire injured workers and aid in the rehabilitation process, the assessment rate of employers should reflect the extent to which they hire or rehire injured workers.
30. Employers should be educated to understand that the Human Rights Code prohibits discrimination against a worker to whom compensation benefits or pensions were or are presently paid.
31. There should be higher fines for employers who violate the Workers' Compensation Act and the Occupational Health and Safety Act. Fines for violators should increase with the number of offences.
32. The Board should strengthen its role in undertaking a full investigation when an industrial disease claim is presented.
33. A thorough, independently-conducted medical examination of all workers working with asbestos and of all workers who have worked with it, whether or not they have a claim, should be done annually. The results of these examinations should be made available to the worker. Programs should also be undertaken which will protect members of asbestos workers' families.





34. The Board should stop sending reports and correspondence concerning former employees of the Johns-Manville plant in Scarborough to the company. It should also make available to former employees copies of all correspondence between the Board and the company.
35. The entire matter of asbestos-related disease should be referred to the Industrial Disease Standards Panel.
36. The spouses of deceased asbestos workers should be compensated regardless of the level of disability of the deceased spouse. Compensation should be automatic unless it can be proven that death was not related to occupational exposure.
37. While off work because of a compensable injury, workers should receive the normal benefits to which they are entitled. Included would be such items as dental, pension, unemployment insurance, Canada Pension Plan, etc.
38. The Board should be permitted by the Act to provide additional support for the worker's family in the form of, for example, a homemaker, child care, and dental expenses for the children.
39. Where overpayment results from an administrative error, it should be recovered from the administration of the Board rather than from the injured worker, unless the error should have been obvious to the injured worker.
40. A full review of persistency rates (the average number of full days on benefit per original lost-time claim) should immediately be undertaken by the new Corporate Board in order to determine the causes of increasing claim duration. The Board should make its report public.



**TERMS OF REFERENCE****Votes and Proceedings No. 18**

Wednesday, 10 July 1985

Ordered, That the following Committee be authorized to meet during the Summer Adjournment, in accordance with the schedule of meeting dates agreed to by the three Party Whips and tabled with the Clerk, to examine and inquire into the following matter:

- **Standing Committee on Resources Development**, to consider the 1984 Annual Report of the Workers' Compensation Board, in accordance with section 85(2) of the Workers' Compensation Act. The proceedings of the Committee on the Annual Report shall be transcribed by the Hansard Reporting Service and appended to the Debates of the House.

**Votes and Proceedings No. 21**

Tuesday, 15 October 1985

Ordered, That the Standing Committee on Resources Development be authorized to meet on the morning of Thursday, October 17th, 1985.

**Votes and Proceedings No. 25**

Monday, 21 October 1985

Ordered, That the Standing Committee on Resources Development be authorized to meet on Tuesday, October 22, and Wednesday, October 23, 1985 to finalize its recommendations concerning the 1984 Annual Report of the Workers' Compensation Board.

**Votes and Proceedings No. 30**

Monday, 28 October 1985

Ordered, That the Standing Committee on Resources Development be authorized to meet in the morning of Wednesday, October 30th, 1985, to finalize its recommendations concerning the 1984 Annual Report of the Workers' Compensation Board.

**Votes and Proceedings No. 34**

Friday, 1 November 1985

Ordered, That the Standing Committee on Resources Development be authorized to present a report to the House based on its consideration of the 1984 Annual Report of the Workers' Compensation Board.



## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

## CONSIDERATION OF WCB ANNUAL REPORT 1984

Schedule of Hearings

October 1985

Tuesday, 1 October 1985

- |            |  |
|------------|--|
| 10:00 a.m. | <ol style="list-style-type: none"> <li>1. The Honourable William Wrye, M.P.P.<br/>Minister of Labour</li> <li>2. Robert G. Elgie, M.D.<br/>Chairman of the Workers' Compensation Board</li> <li>3. Statements by Opposition Critics</li> </ol> |
| 2:00 p.m.  | <ol style="list-style-type: none"> <li>1. Odoardo Di Santo<br/>Director, Office of the Worker Adviser</li> </ol>   |

Wednesday, 2 October 1985

- |            |  |
|------------|--|
| 10:00 a.m. | <ol style="list-style-type: none"> <li>1. Workers' Compensation Board</li> </ol> |
| 2:00 p.m.  | <ol style="list-style-type: none"> <li>1. Workers' Compensation Board</li> </ol> |

Thursday, 3 October 1985

- |            |  |
|------------|--|
| 10:00 a.m. | <ol style="list-style-type: none"> <li>1. Ron Ellis, Q.C.<br/>Chairman<br/>Workers' Compensation Appeals Tribunal</li> <li>2. Workers' Compensation Board</li> <li>3. Jason E. Mandlowitz<br/>Director<br/>Office of the Employer Adviser</li> </ol> |
| 2:00 p.m.  | <ol style="list-style-type: none"> <li>1. Workers' Compensation Board</li> </ol>   |



Monday, 7 October 1985

- 10:00 a.m.                      Macdonald Block, Ontario Room
1.      Union of Injured Workers
- 2:00 p.m.                      Room 228, Legislative Building
1.      The Central Toronto Community Clinic

Tuesday, 8 October 1985

- 10:00 a.m.
1.      Employers' Council on Workers' Compensation
  2.      Asbestos Victims of Ontario
  3.      Canadian Manufacturers' Association
- 2:00 p.m.
1.      Council of Ontario Contractors Associations
  2.      The Ontario Fruit and Vegetable Growers' Association
  3.      Hamilton District Labour Council

Wednesday, 9 October 1985

- 10:00 a.m.
1.      Ontario Mining Association
  2.      United Steel Workers of America
  3.      Welland District Injured Workers Association
- 2:00 p.m.
1.      Association of Southwest Legal Clinics
  2.      N.D.P. Constituency Assistants Association
  3.      Ontario Federation of Labour





Thursday, 10 October 1985

10:00 a.m.

1. Simcoe County Injured Workers Association

2:00 p.m.

Review

Thursday, 17 October 1985

10:00 a.m.

Review

Tuesday, 22 October 1985

8:00 p.m.

1. Workers' Compensation Appeals Tribunal

Wednesday, 23 October 1985

10:00 a.m.

Review

Wednesday, 30 October 1985

10:00 a.m.

Draft Report



## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

LIST OF EXHIBITS2 October 1985

- Exhibit No. 1                      WORKERS' COMPENSATION BOARD:  
Information: New Internal Review System at  
Ontario Workers' Compensation Board.
- Exhibit No. 2                      WORKERS' COMPENSATION BOARD:  
Form: Review Branch Decision Information.
- Exhibit No. 3                      WORKERS' COMPENSATION BOARD:  
Form: Appeals Tribunal Decision Information.
- Exhibit No. 4                      WORKERS' COMPENSATION BOARD:  
Form: Hearings Branch Decision Information.
- Exhibit No. 5                      WORKERS' COMPENSATION BOARD:  
Organization Chart: Review Branch.
- Exhibit No. 6                      WORKERS' COMPENSATION BOARD:  
Background Information: Objecting to a Board  
Decision.

3 October 1985

- Exhibit No. 7                      WORKERS' COMPENSATION BOARD:  
Form Letter: General Information About  
Compensation for Accidents Occurring on or After  
April 1, 1985.

7 October 1985

- Exhibit No. 8                      WORKERS' COMPENSATION BOARD:  
Letter dated September 27, 1985 from Hazel B.  
McDonald, Acting Secretary, re: Decentralization  
of Pensions.
- Exhibit No. 9                      UNION OF INJURED WORKERS:  
Submission dated October 7, 1985 from Philip Biggin  
et al.
- Exhibit No. 10                      UNION OF INJURED WORKERS CLINIC:  
Submission dated October 7, 1985 from Union of  
Injured Workers Clinic, Central Toronto Community  
Legal Clinic, 364 Bathurst St., Toronto M5T 2S6.



8 October 1985

- Exhibit No. 11 COUNCIL OF ONTARIO CONTRACTORS ASSOCIATIONS:  
Submission dated October 8, 1985.
- Exhibit No. 12 ONTARIO FRUIT AND VEGETABLE GROWERS' ASSOCIATION AND ONTARIO FEDERATION OF AGRICULTURE:  
Joint Submission.
- Exhibit No. 13 HAMILTON AND DISTRICT LABOUR COUNCIL:  
Submission dated October 1985, from Sharon Fair and Gary Thomas, Occupational Health and Safety Committee of Hamilton and District Labour Council.
- Exhibit No. 14 EMPLOYERS' COUNCIL ON WORKERS' COMPENSATION:  
Submission dated October 8, 1985.
- Exhibit No. 15 LEGISLATIVE RESEARCH OFFICER:  
Memorandum dated October 8, 1985 from Merike Madisso, Research Officer, re: Report of the Royal Commission on Matters of Health and Safety Arising from the use of Asbestos in Ontario.
- Exhibit No. 16 ASBESTOS VICTIMS OF ONTARIO:  
Submission dated October 7, 1985.
- Exhibit No. 17 CANADIAN MANUFACTURERS' ASSOCIATION:  
Submission from the Canadian Manufacturers' Association, One Yonge Street, 14th Floor, Toronto M5E 1J9.

9 October 1985

- Exhibit No. 18 ONTARIO MINING ASSOCIATION:  
Submission dated October 9, 1985.
- Exhibit No. 19 UNITED STEELWORKERS OF AMERICA:  
Submission dated October 9, 1985 from John Martin, Compensation Chairman, Local Union 1005; Bernie Young, Health and Safety Representative, National Office of Canada.
- Exhibit No. 19A UNITED STEELWORKERS OF AMERICA:  
Letter dated October 2, 1985 from J.A. Weber, Associate Dean - Marketing and Contract Services, Mohawk College, to William A. White, Chairman, Pre-Retirement Committee, Local 1005, 1031 Barton St. East, Hamilton L8L 3E3.



- Exhibit No. 20                      WELLAND DISTRICT INJURED WORKERS  
ASSOCIATION:  
Submission dated October 9, 1985 from Roly  
Lunardon, President.
- Exhibit No. 21                      ASSOCIATION OF SOUTHWEST LEGAL CLINICS:  
Submissions dated October 9, 1985 from Halton Hills  
Community Legal Clinic, Legal Assistance Kent,  
McQuesten Legal and Community Services, Niagara  
North Community Legal Services and Waterloo  
Region Community Legal Services.
- Exhibit No. 22                      WORKERS' COMPENSATION BOARD:  
Presentation from Sonny Arrojado, Chairperson,  
Workers' Compensation Board of Manitoba: Early  
Intervention: - A Must for Effective Rehabilitation  
in the Workers' Compensation System. Presented at  
the 2nd Annual Workers' Compensation Conference.
- Exhibit No. 23                      N.D.P. CONSTITUENCY ASSISTANTS  
ASSOCIATION:  
Submission dated October 9, 1985.
- Exhibit No. 24                      ONTARIO FEDERATION OF LABOUR:  
Submission dated October 9, 1985.

10 October 1985

- Exhibit No. 25                      SIMCOE LEGAL SERVICES CLINIC:  
Submission dated October 10, 1985 from Simcoe  
Legal Services Clinic on behalf of Simcoe County  
Injured Workers' Association.
- Exhibit No. 26                      WORKERS' COMPENSATION BOARD:  
Background Information in response to questions  
raised by Members and Submissions to the  
Committee during public hearings: Performance  
Study - Industrial Disease Claims, etc.

WILLIAM DISTRICT NURSERY NURSES  
ASSOCIATION  
Subcommittee on Public Health  
November 1, 1952

Exhibit No. 10

ASSOCIATION OF NORTHERN LOCAL CLINICS  
Subcommittee on Public Health  
November 1, 1952  
Community Health Clinic, Local Nurseries, etc.  
McGraw-Hill and University Books, etc.  
The Community Health Clinic and Nurseries  
November 1, 1952

Exhibit No. 11

WORKERS' COMPENSATION BOARD  
Subcommittee on Public Health  
November 1, 1952  
Workers' Compensation Board of the State  
Insurance Department  
November 1, 1952  
The Workers' Compensation Board, etc.  
November 1, 1952

Exhibit No. 12

W.P. COUNTY HEALTH DEPARTMENT  
ASSOCIATION  
Subcommittee on Public Health  
November 1, 1952

Exhibit No. 13

WYOMING STATE BOARD OF HEALTH  
Subcommittee on Public Health  
November 1, 1952

Exhibit No. 14

IN SECTION 1002

WYOMING STATE BOARD OF HEALTH  
Subcommittee on Public Health  
November 1, 1952  
Wyoming State Board of Health  
November 1, 1952

Exhibit No. 15

WYOMING STATE BOARD OF HEALTH  
Subcommittee on Public Health  
November 1, 1952  
Wyoming State Board of Health  
November 1, 1952

Exhibit No. 16





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